

RECEIPT # 62936
 AMOUNT \$ 252
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 LOCAL RULE 4.1 _____
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 DATE 3-21-05

UNITED STATES DISTRICT COURT
 FOR THE
 DISTRICT OF MASSACHUSETTS

FILED
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U.S. DISTRICT COURT

THOMAS BINNALL and
 SUSAN BINNALL,
 Plaintiffs,

v.

BATH IRON WORKS CORPORATION
 GENERAL DYNAMICS
 CORPORATION,
 Defendants.

PLAINTIFFS' COMPLAINT
AND JURY DEMAND

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GENERAL ALLEGATIONS

MAGISTRATE JUDGE *Elizavete*

1. The plaintiff, Thomas Binnall, is a citizen of the Commonwealth of Massachusetts and a resident of Waltham, County of Middlesex.
2. The plaintiff, Susan Binnall, is a citizen of the Commonwealth of Massachusetts and a resident of Waltham, County of Middlesex.
3. At all times relevant hereto, the plaintiff, Susan Binnall was and is the wife of Thomas Binnall.
4. The defendant, Bath Iron Works Corporation ("Bath Iron Works"), is a Maine corporation with a principal place of business located in Bath, Maine.
5. The defendant, General Dynamics Corporation ("General Dynamics"), is a Delaware corporation with a principal place of business located in Falls Church, Virginia.
6. At all times relevant hereto, Bath Iron Works was a wholly owned subsidiary of General Dynamics.
7. Diversity jurisdiction exists pursuant to 28 U.S.C.A. 1332.
8. Personal jurisdiction over the defendants exist pursuant to M.G.L. c. 223A, §§3(a) and (b). The plaintiffs' claims arise out of the defendants transacting business in the Commonwealth of Massachusetts and contracting to supply services or things in the Commonwealth. The defendants also regularly do or solicit business and derive substantial revenue from goods used or consumed in

the Commonwealth of Massachusetts, and both defendants maintain “foreign business certificates” with the Massachusetts Secretary of State.

FACTUAL ALLEGATIONS

9. On or about July 2, 2002, the plaintiff was employed as a truck driver by USF Logistics (“USF”) and had been dispatched to Bath Iron Works to deliver a load of steel pipes.
10. On or about July 2, 2002, the plaintiff arrived at Bath Iron Works (“Bath”) and alerted the receiving department that he had a shipment of steel pipe that required off-loading from his trailer. The pipes ranged in length between 20 to 23 feet long and $\frac{3}{4}$ to 6 inches in diameter.
11. Bath Iron Works’ receiving department advised Mr. Binnall that the crane operator was not available to off-load his shipment and they would be unable to accept his shipment.
12. Another Bath Iron Works employee then advised Mr. Binnall that he would in fact be able to off-load his shipment of steel pipes using a fork-lift.
13. As requested, Mr. Binnall then returned to his truck and prepared his shipment for off-loading by one or more of Bath Iron Works’ agents, servants, and/or employees.
14. While Mr. Binnall was in the process of removing a strap located near the driver’s side of his truck, a Bath Iron Works’ agent, servant, and/or employee suddenly and without warning to the plaintiff, attempted to lift the steel pipe off the plaintiff’s truck using a forklift.
15. In doing so, a steel band that bound several of the steel pipes broke free causing the steel pipes to fall directly on the plaintiff’s head and body, pinning the plaintiff and crushing his lower extremities.
16. As a result of the incident, Mr. Binnall sustained extremely serious and permanent physical injuries, including multiple compound fractures requiring surgical revision, profound emotional distress, pain and suffering, lost wages, and impaired past and future earning capacity
17. As a direct and proximate result of the defendant’s negligence, Mrs. Binnall was caused to sustain the loss of her husband’s care, comfort, and society (collectively referred to as “loss of consortium”).

COUNT 1

**CLAIM OF THE PLAINTIFF, THOMAS BINNALL, AGAINST THE
DEFENDANT, BATH IRON WORKS CORPORATION, FOR PERSONAL
INJURIES AND RELATED LOSSES PREDICATED ON NEGLIGENCE.**

18. The plaintiff repeats, realleges and incorporates fully herein paragraphs 1 through 17.
19. On or about July 2, 2002, the plaintiff was a lawful visitor to Bath Iron Works, in Bath, Maine.
20. On or about July 2, 2002, one or more Bath Iron Works' employees negligently off-loaded steel pipe from the plaintiff's 50-foot flat-bed trailer causing the pipes to fall from the trailer bed and directly upon Mr. Binnall's head and legs, causing him to sustain serious and permanent injuries and related losses.
21. As a direct and proximate result of the defendant's negligence, the plaintiff was caused to suffer and did suffer extremely serious personal injuries, including great pain of body and anguish of mind, and incurred substantial medical expenses and related economic losses.
22. As a result of the foregoing, the plaintiff is entitled to recover damages from the defendant, Bath Iron Works Corporation, in an amount deemed fair and reasonable to fully compensate him for all of his incident related injuries and losses, together with interest and costs.

WHEREFORE, the plaintiff, Thomas Binnall, demands judgment against the defendant, Bath Iron Works Corporation, in an amount deemed fair and reasonable to fully compensate him for all of his incident-related injuries and losses, together with interest and costs

COUNT II

**CLAIM OF THE PLAINTIFF, THOMAS BINNALL, AGAINST THE
DEFENDANT, GENERAL DYNAMICS CORPORATION, FOR PERSONAL
INJURIES AND RELATED LOSSES PREDICATED ON NEGLIGENCE.**

23. The plaintiff repeats, realleges and incorporates fully herein paragraphs 1 through 22.
24. On or about July 2, 2002, the plaintiff was a lawful visitor to Bath Iron Works, in Bath, Maine.
25. On or about July 2, 2002, one or more Bath Iron Works' employees negligently off-loaded steel pipe from the plaintiff's 50-foot flat-bed trailer causing the pipes

to fall from the trailer bed and directly upon Mr. Binnall's head and legs, causing him to sustain serious and permanent injuries and related losses.

26. As a direct and proximate result of the defendant's negligence, the plaintiff was caused to suffer and did suffer extremely serious personal injuries, including great pain of body and anguish of mind, and incurred substantial medical expenses and related economic losses.
27. As a result of the foregoing, the plaintiff is entitled to recover damages from the defendant, General Dynamics Corporation, in an amount deemed fair and reasonable to fully compensate him for all of his incident related injuries and losses, together with interest and costs.

WHEREFORE, the plaintiff, Thomas Binnall, demands judgment against the defendant, General Dynamics Corporation, in an amount deemed fair and reasonable to fully compensate him for all of his incident-related injuries and losses, together with interest and costs

COUNT III

CLAIM OF THE PLAINTIFF, SUSAN BINNALL, AGAINST THE DEFENDANT, BATH IRON WORKS CORPORATION, FOR THE LOSS OF HER HUSBAND'S CARE, COMFORT, AND SOCIETY (COLLECTIVELY REFERRED TO AS "LOSS OF CONSORTIUM")

28. The plaintiff repeats, realleges, and incorporates fully herein paragraphs 1 through 27.
29. As a direct and proximate result of the defendant's negligence and her husband's resulting injuries, the plaintiff was caused to sustain a significant loss of consortium.
30. As a result of the foregoing, the plaintiff is entitled to recover damages from the defendant, Bath Iron Works Corporation, in an amount deemed fair and reasonable to fully compensate her for all of her incident-related injuries and losses, together with interest and costs.

WHEREFORE, the plaintiff, Susan Binnall, demands judgment against the defendant, Bath Iron Works Corporation, in an amount deemed fair and reasonable to fully compensate her for all of her incident-related injuries and losses, together with interest and costs

COUNT IV

**CLAIM OF THE PLAINTIFF, SUSAN BINNALL, AGAINST THE DEFENDANT,
GENERAL DYNAMICS CORPORATION, FOR THE LOSS OF HER
HUSBAND'S CARE, COMFORT, AND SOCIETY (COLLECTIVIELY
REFERRED TO AS "LOSS OF CONSORTIUM")**


31. The plaintiff repeats, realleges, and incorporates fully herein paragraphs 1 through 30.
32. As a direct and proximate result of the defendant's negligence and her husband's resulting injuries, the plaintiff was caused to sustain a significant loss of consortium.
33. As a result of the foregoing, the plaintiff is entitled to recover damages from the defendant, General Dynamics Corporation, in an amount deemed fair and reasonable to fully compensate her for all of her incident-related injuries and losses, together with interest and costs.

WHEREFORE, the plaintiff, Susan Binnall, demands judgment against the defendant, General Dynamics Corporation, in an amount deemed fair and reasonable to fully compensate her for all of her incident-related injuries and losses, together with interest and costs

DEMAND FOR JURY TRIAL

The Plaintiffs claims trial by jury on all Counts.

Respectfully submitted,
The Plaintiffs,
By their Attorneys,


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